

# Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

## Chapter 521: SUBSTANCE ABUSE PREVENTION AND TREATMENT

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**Maine Revised Statutes**  
**Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES**  
**Chapter 521: SUBSTANCE ABUSE PREVENTION AND TREATMENT**

**Subchapter 1: GENERAL PROVISIONS**

**§20001. TITLE**

This chapter may be known and cited as the "Maine Substance Abuse Prevention and Treatment Act."  
[1989, c. 934, Pt. A, §3 (NEW).]

SECTION HISTORY

1989, c. 934, §A3 (NEW).

**§20002. PURPOSE**

The purposes of this Act are: [1989, c. 934, Pt. A, §3 (NEW).]

**1. Integrated and comprehensive approach.** To adopt an integrated approach to the problem of alcohol and other drug abuse and to focus all the varied resources of the State on developing a comprehensive and effective range of alcohol and other drug abuse prevention and treatment activities and services;

[ 2007, c. 116, §1 (AMD) .]

**2. Coordination of activities and services.** To establish within the Department of Health and Human Services the responsibility for planning, developing, implementing, coordinating and evaluating all of the State's alcohol and other drug abuse prevention and treatment activities and services;

[ 2011, c. 657, Pt. AA, §5 (AMD) .]

**3. Tobacco use by juveniles.** To enforce the State's laws relating to the sale and use of tobacco products by juveniles and to coordinate state and local activities related to those provisions. The department shall take all necessary actions to ensure compliance with the Synar Act, 42 United States Code, Section 300X-26, including the preparations of reports for the signature of the Governor. All law enforcement agencies, all state departments, including the Department of Public Safety, and municipalities shall cooperate with the department in these efforts.

The department may enter into any contracts or agreements necessary or incidental to the performance of its duties under this section, subject to section 20005, subsection 6 and section 20005-A. The department shall provide or assist in the provision of voluntary training programs regarding the sales of tobacco products to juveniles; and

[ 2011, c. 657, Pt. AA, §5 (AMD) .]

**4. Gambling addiction counseling.** To establish standards for the provision of gambling addiction counseling services and other activities relating to the prevention and treatment of gambling addiction. The department may accept private, state and federal funds to support the performance of its duties under this subsection.

[ 2011, c. 657, Pt. AA, §6 (AMD) .]

SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §2 (AMD). 1995, c. 470, §1 (AMD). 1995, c. 560, §§L1,2 (AMD). 1995, c. 560, §L16 (AFF). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §13 (COR). 2003, c. 689, §B6 (REV). 2007, c. 116, §1 (AMD). 2011, c. 657, Pt. AA, §§5, 6 (AMD).

## §20003. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 934, Pt. A, §3 (NEW).]

**1. Alcoholic.** "Alcoholic" means a person who uses alcoholic beverages to the extent that the person's health is substantially impaired or endangered or the person's social or economic function is substantially disrupted.

[ 1991, c. 601, §3 (AMD) .]

**2. Approved public treatment facility.** "Approved public treatment facility" means an alcohol treatment facility operating under the direction and control of the department or providing treatment under this subchapter through a contract with the department under section 20008, or any facility funded in whole or in part by municipal, state or federal funds.

[ 2011, c. 657, Pt. AA, §7 (AMD) .]

**3. Approved treatment facility.** "Approved treatment facility" means a public or private alcohol treatment facility meeting standards approved by the department in accordance with section 20005 and licensed pursuant to subchapter 5 and other applicable provisions of state law.

[ 2011, c. 657, Pt. AA, §8 (AMD) .]

**3-A. Commission.** "Commission" means the Substance Abuse Services Commission, as established by section 12004-G, subsection 13-C.

[ 1993, c. 410, Pt. LL, §4 (NEW) .]

**3-B. Commissioner.** "Commissioner" means the Commissioner of Health and Human Services.

[ 2011, c. 657, Pt. AA, §9 (AMD) .]

**4. Community service provider.** "Community service provider" means a provider of alcohol or drug abuse treatment or gambling addiction treatment, including, but not limited to, evaluation.

[ 2007, c. 116, §2 (AMD) .]

**5. Council.**

[ 1993, c. 410, Pt. LL, §5 (RP) .]

**6. Department.** "Department" means the Department of Health and Human Services.

[ 2011, c. 657, Pt. AA, §10 (AMD) .]

**7. Dependency-related drug.** "Dependency-related drug" means alcohol or any substance controlled under Title 22, chapter 558 or Title 32, chapter 117.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**8. Director.**

[ 2011, c. 657, Pt. AA, §11 (RP) .]

**9. Drug abuse prevention.** "Drug abuse prevention" means all facilities, programs or services relating to drug abuse control, education, rehabilitation, research, training and treatment, and includes these functions as related to alcoholics and intoxicated persons. The term includes such functions even when performed by an organization whose primary mission is the prevention of drug traffic or is unrelated to drugs. This term does not include any function defined under subsection 19 as "prevention of drug traffic."

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**10. Drug abuser.** "Drug abuser" means a person who uses any drugs, dependency-related drugs or hallucinogens in violation of any law of the State.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**11. Drug addict.** "Drug addict" means a drug-dependent person who, due to the use of a dependency-related drug, has developed such a tolerance to the dependency-related drug that abrupt termination of its use would produce withdrawal symptoms.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**12. Drug-dependent person.** "Drug-dependent person" means any person who is unable to function effectively and whose inability to do so causes, or results from, the use of a dependency-related drug.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**13. Emergency service patrol.**

[ 1991, c. 601, §5 (RP) .]

**14. Incapacitated by alcohol.**

[ 1991, c. 601, §5 (RP) .]

**15. Incompetent person.**

[ 1991, c. 601, §5 (RP) .]

**16. Intoxicated person.**

[ 1991, c. 601, §5 (RP) .]

**17. Office.**

[ 2011, c. 657, Pt. AA, §12 (RP) .]

**18. Prevention.** "Prevention" means any activity designed to educate or provide information to individuals and groups about the use or abuse of alcohol and other drugs.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**19. Prevention of drug traffic.** "Prevention of drug traffic" means any functions conducted for the purpose of preventing drug traffic, such as law enforcement and judicial activities or proceedings, including:

A. The investigation, arrest and prosecution of drug offenders and offenses; or [1989, c. 934, Pt. A, §3 (NEW).]

B. The detection and suppression of illicit drug supplies. [1989, c. 934, Pt. A, §3 (NEW).]

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**20. Standards.** "Standards" means criteria and rules of the department that are to be met before and during operation of any treatment facility or treatment program.

[ 2011, c. 657, Pt. AA, §13 (AMD) .]

**21. Substance Abuse Advisory Group.** "Substance Abuse Advisory Group" means the group consisting of the 5 commissioners designated in section 20007.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**22. Treatment.** "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including career counseling, diagnostic evaluation, employment, health, medical, psychiatric, psychological, recreational, rehabilitative, social service care, treatment and vocational services, that may be extended to an alcoholic, intoxicated person, drug abuser, drug addict, drug-dependent person or a person in need of assistance due to the use of a dependency-related drug.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**23. Treatment program.** "Treatment program" means any program or service, or portion of a program or service, sponsored under the auspices of a public or private nonprofit agency providing services especially designed for the treatment of those persons listed in subsection 22.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §§3-5 (AMD). 1991, c. 850, §2 (AMD). 1993, c. 410, §§LL4,5 (AMD). 2001, c. 354, §3 (AMD). 2007, c. 116, §2 (AMD). 2011, c. 657, Pt. AA, §§7-13 (AMD).

## §20004. OFFICE ESTABLISHED

*(REPEALED)*

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1995, c. 560, §L16 (AFF). 1995, c. 560, §L3 (RPR). 2001, c. 354, §3 (AMD). 2003, c. 689, §B6 (REV). 2011, c. 657, Pt. AA, §14 (RP).

## §20004-A. DEPARTMENTS AND AGENCIES RESPONSIBLE FOR COOPERATION IN IMPLEMENTATION

All departments and agencies in State Government are required to cooperate with the department in its implementation and administration of this chapter. [2011, c. 657, Pt. AA, §15 (AMD).]

#### SECTION HISTORY

1993, c. 410, §LL6 (NEW). 2011, c. 657, Pt. AA, §15 (AMD).

## §20005. POWERS AND DUTIES

The department shall: [ 2011, c. 657, Pt. AA, §16 (AMD) . ]

**1. State Government.** Establish the overall plans, policies, objectives and priorities for all state alcohol and other drug abuse prevention and treatment functions, except the prevention of drug traffic and the State Employee Assistance Program established pursuant to Title 22, chapter 254-A;

[ 1991, c. 601, §6 (AMD) . ]

**2. Comprehensive plan.** Develop and provide for the implementation of a comprehensive state plan for alcohol and drug abuse. Any plan developed by the department must be subject to public hearing prior to implementation;

[ 2011, c. 657, Pt. AA, §17 (AMD) . ]

**3. Information.** Ensure the collection, analysis and dissemination of information for planning and evaluation of alcohol and drug abuse services;

[ 1989, c. 934, Pt. A, §3 (NEW) . ]

**4. Coordination; organizational unit.** Ensure that alcohol and drug abuse assistance and service are delivered in an efficient and coordinated program and, with the oversight of the commission, coordinate all programs and activities authorized by the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616 (1982), as amended, and by the Drug Abuse Office and Treatment Act of 1972, 21 United States Code, Section 1101 et seq. (1982), as amended; and other state or federal programs or laws related to drug abuse prevention that are not the specific responsibility of another state agency under federal or state law;

[ 1993, c. 410, Pt. LL, §7 (AMD) . ]

**5. Budget.** Develop and submit to the Legislature by January 15th of the first year of each legislative biennium recommendations for continuing and supplemental allocations, deappropriations or reduced allocations and appropriations from all funding sources for all state alcohol and drug abuse programs. The department shall make final recommendations to the Governor before any substance abuse funds are appropriated or deappropriated in the Governor's proposed budget. The department shall formulate all budgetary recommendations for the Driver Education and Evaluation Programs with the advice, consultation and full participation of the chief executive officer of the Driver Education and Evaluation Programs.

Notwithstanding any other provision of law, funding appropriated and allocated by the Legislature for the department for substance abuse prevention and treatment is restricted solely to that use and may not be used for other expenses of the department. By January 15th of each year, the commissioner or the commissioner's designee shall deliver a report of the budget and expenditures of the department for substance abuse prevention and treatment to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and human resource matters;

[ 2011, c. 657, Pt. AA, §18 (AMD) . ]

**6. Contracts and licensing.** Through the commissioner:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services; [ 2007, c. 116, §3 (AMD) . ]

A-1. Administer all contracts with community service providers for the delivery of gambling addiction counseling services; and [ 2007, c. 116, §4 (NEW) . ]

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, community-based service providers and facilities that are private nonmedical institutions pursuant to section 20024 and subchapter 5. [2003, c. 673, Pt. V, §1 (AMD); 2003, c. 673, Pt. V, §29 (AFF).]

C. [1995, c. 560, Pt. L, §16 (AFF); 1995, c. 560, Pt. L, §5 (RP).]

The commissioner may delegate contract and licensing duties under this subsection to the Department of Corrections as long as that delegation ensures that contracting for alcohol and other drug abuse services provided in community settings is consolidated within the department, that contracting for alcohol and other drug abuse services delivered within correctional facilities is consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered within mental health facilities or as a component of programs serving persons with intellectual disabilities or autism is consolidated within the department.

The commissioner may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The commissioner may not issue requests for proposals for existing contract services until the commissioner has adopted rules in accordance with the Maine Administrative Procedure Act to ensure that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified and that any change in provider is accomplished in a manner that fully protects the consumer of services.

The commissioner shall establish a procedure to obtain assistance and advice from consumers of alcohol and other drug abuse services regarding the selection of contractors when requests for proposals are issued;

[ 2011, c. 657, Pt. AA, §19 (AMD) .]

**6-A. Contract award and renewal.** Award a new contract through a request-for-proposal procedure. Any contract of \$500,000 per year or more that is renewed must be awarded through a request-for-proposal procedure at least every 8 years, except for the following.

A. A renewal contract with a provider is not subject to the request-for-proposal procedure requirement if the contract granted under this subsection is performance based. [1997, c. 381, §1 (NEW).]

B. Notwithstanding paragraph A, the department shall subject a contract to a request-for-proposal procedure when necessary to comply with paragraph C. [1997, c. 381, §1 (NEW).]

C. A contract under this subsection that is subject to renewal must be awarded through a request-for-proposal procedure if the department determines that:

- (1) The provider has breached the existing contract;
- (2) The provider has failed to correct deficiencies cited by the department;
- (3) The provider is inefficient or ineffective in the delivery of services and is unable to improve its performance within a reasonable time; or
- (4) The provider can not or will not respond to a reconfiguration of service delivery requested by the department; [1997, c. 381, §1 (NEW).]

[ 1997, c. 381, §1 (NEW) .]

**6-B. Consumer assistance and advice.** Establish a procedure to obtain assistance and advice from consumers of substance abuse services regarding the selection of contractors when requests-for-proposals are issued.

[ 1997, c. 381, §1 (NEW) .]



**7. Uniform requirements.** Develop, use and require the use of uniform contracting, information gathering and reporting formats by any state-funded alcohol and other drug abuse programs. Contracting standards must include measurable performance-based criteria on which funding allocations are, in part, based;

[ 1991, c. 601, §6 (AMD) .]

**8. Reports.** By January 15th of each year, report to the Legislature on the accomplishments of the past year's programs, the progress toward obtaining goals and objectives of the comprehensive state plan and other necessary or desirable information;

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**9. Funds.** Have the authority to seek and receive funds from the Federal Government and private sources to further the purposes of this Act;

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**10. Agreements.** Enter into agreements necessary or incidental to the purposes of this Act;

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**11. Cooperation.** Provide support and guidance to individuals, local governments, public organizations and private organizations in their alcohol and drug abuse prevention activities;

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**12. Rules.** Adopt rules, in accordance with the Maine Administrative Procedure Act, necessary to carry out the purposes of this chapter and approve any rules adopted by state agencies for the purpose of implementing alcohol or drug abuse prevention or treatment programs.

All state agencies must comply with rules adopted by the department regarding uniform alcohol and other drug abuse contracting requirements, formats, schedules, data collection and reporting requirements;

[ 2011, c. 657, Pt. AA, §20 (AMD) .]

**12-A. Training programs.** Provide or assist in the provision of training programs for all persons in the field of treating alcoholics and drug abusers, persons engaged in the prevention of alcohol and other drug abuse or any other organization or individual in need of or requesting training or other educational information related to alcohol or other drug abuse;

[ 1991, c. 601, §7 (NEW) .]

**12-B. Motor vehicle operator programs.** Administer and oversee the operation of the State's programs related to the abuse of alcohol by motor vehicle operators;

[ 1993, c. 410, Pt. LL, §8 (AMD) .]

**13. General authority.** Perform other acts or exercise any other powers necessary or convenient to carry out the purposes of this chapter;

[ 1993, c. 410, Pt. LL, §9 (AMD) .]

**14. Interdepartmental cooperation.** Document to the Legislature's satisfaction active participation and cooperation between the department and the other departments with which it works through the commission;

[ 2011, c. 657, Pt. AA, §21 (AMD) .]

**15. Public input.** Document an active, aggressive effort to obtain client and public input on its decision-making process through public hearings and other activities conducted by the commission;

[ 1993, c. 410, Pt. LL, §10 (NEW) .]

**16. Substance abuse services plan.** Plan for not only those services funded directly by the department, but also those additional services determined by the commission to be critical and related;

[ 2011, c. 657, Pt. AA, §22 (AMD) .]

**17. Program services assessment and implementation.** Analyze the existing services system, including the prevention services offered within the State's public school systems, identify gaps, strengths and weaknesses in the current services, identify priorities for expanding or revising the existing services and develop a specific plan to accomplish the most critical changes that are needed;

[ 1993, c. 410, Pt. LL, §10 (NEW) .]

**18. Comprehensive training strategy.** Establish a comprehensive training strategy designed to develop the capacity of front-line staff in direct human services positions, including appropriate state agency staff, to recognize, assess and refer chemically dependent clients for appropriate treatment;

[ 1993, c. 410, Pt. LL, §10 (NEW) .]

**19. Fiscal and program accountability.** Enhance its current efforts to ensure fiscal and program accountability for the services it purchases and provides;

[ 2005, c. 674, §1 (AMD) .]

**20. Review policies.** Review the full range of public policies and strategies existing in State Government to identify changes that would strengthen its response, identify policies that might discourage excessive consumption of alcohol and other drugs and generate new funding for alcohol and other drug services; and

[ 2005, c. 674, §1 (AMD) .]

**21. List of banned performance-enhancing substances.** Develop and maintain a list of banned performance-enhancing substances in accordance with Title 20-A, section 6621.

[ 2005, c. 674, §2 (NEW) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 557, §§1,2 (AMD). 1991, c. 601, §§6,7 (AMD). 1991, c. 792, (AMD). 1991, c. 850, §§3,4 (AMD). 1993, c. 349, §21 (AMD). 1993, c. 410, §§LL7-10 (AMD). 1995, c. 560, §§L4,5 (AMD). 1995, c. 560, §L16 (AFF). 1997, c. 381, §1 (AMD). 1997, c. 588, §1 (AMD). 2003, c. 673, §V1 (AMD). 2003, c. 673, §V29 (AFF). 2003, c. 689, §B6 (REV). 2005, c. 674, §§1,2 (AMD). 2007, c. 116, §§3, 4 (AMD). 2011, c. 542, Pt. A, §6 (AMD). 2011, c. 657, Pt. AA, §§16-22 (AMD).

## §20005-A. PERFORMANCE-BASED CONTRACTS

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the commissioner shall manage all funds available for the provision of alcohol or other drug abuse services, as well as all funds available for the provision of gambling addiction counseling services, in accordance with the provisions of this section. [2007, c. 116, §5 (AMD).]

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a legally binding written document between 2 or more parties, including those documents that are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid. [1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF).]

B. "Performance-based contract" means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided. [1993, c. 737, §1 (NEW).]

[ 1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF) .]

**2. Performance-based contract.** The commissioner shall ensure that all agreements to purchase alcohol or other drug abuse services entered into on or after July 1, 1995 are performance-based contracts.

[ 1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF) .]

**3. Rules.** The commissioner shall adopt rules to implement this section, including, but not limited to, the establishment of program goals, outcome measures, an information management system to collect and manage contract data, a system of ongoing assessment of program effectiveness and hold-harmless guidelines for provider agencies during the first contract period or 12 months, whichever is greater.

[ 1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF) .]

**4. Procedures.** The following procedures apply whenever the commissioner commences a request-for-proposal procedure.

A. The commissioner shall hold at least one informational meeting at least 30 days before the due date for submission of the notice of intent to bid. Any informational meeting must be advertised in newspapers of general circulation stating the location, date, time and purpose of the meeting. At the meeting the commissioner shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions. [1995, c. 691, §1 (AMD).]

B. The commissioner shall require any interested party to submit a notice of intent to bid at least 30 days before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain minimal requirements that demonstrate a prospective bidder's competence and ability to comply with the requirements of the contract. [1995, c. 691, §1 (AMD).]

C. If only one community service provider submits a notice of intent to bid, the commissioner may enter into negotiations concerning a contract with that provider in accordance with the procedures established for performance-based contracts. [1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF).]

D. For purposes of this section, the commissioner retains the right to reject any bids submitted and any proposals made during negotiations pursuant to paragraph C. [1995, c. 560, Pt. L, §6 (AMD); 1995, c. 560, Pt. L, §16 (AFF).]

[ 1995, c. 691, §1 (AMD) .]

#### SECTION HISTORY

1993, c. 737, §1 (NEW). 1995, c. 402, §B1 (AMD). 1995, c. 560, §L6 (AMD). 1995, c. 560, §L16 (AFF). 1995, c. 691, §1 (AMD). 2007, c. 116, §5 (AMD).

## §20006. DIRECTOR

*(REPEALED)*

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §§8,9 (AMD). 1995, c. 560, §L16 (AFF). 1995, c. 560, §L7 (RP).

## §20006-A. COMMISSIONER DUTIES

The commissioner or the commissioner's designee shall: [2011, c. 657, Pt. AA, §23 (AMD) .]

**1. Alternatives.** Propose alternatives to current alcohol and drug abuse prevention and treatment programs and services;

[ 1995, c. 560, Pt. L, §8 (NEW); 1995, c. 560, Pt. L, §16 (AFF) .]

**2. Investigate.** Conduct investigations and studies of any alcohol or drug abuse program or community service provider operating under the control of the department or providing treatment under this chapter through a contract with the department under section 20008 that are licensed pursuant to section 20024 or any facility funded in whole or in part by municipal, state or local funds, as necessary; and

[ 2011, c. 657, Pt. AA, §23 (AMD) .]

**3. Other duties and powers.** Carry out other duties and exercise other powers granted to the commissioner under this Act and under Title 22-A, section 207, subsection 3.

[ 2011, c. 657, Pt. AA, §23 (AMD) .]

#### SECTION HISTORY

1995, c. 560, §L8 (NEW). 1995, c. 560, §L16 (AFF). 2007, c. 539, Pt. N, §7 (AMD). 2011, c. 657, Pt. AA, §23 (AMD).

## §20006-B. GAMBLING ADDICTION PREVENTION AND TREATMENT FUND

**1. Fund established.** The Gambling Addiction Prevention and Treatment Fund, referred to in this section as "the fund," is established for the purpose of supporting gambling addiction analysis, prevention and treatment to be administered by the department. The fund is a dedicated, nonlapsing fund into which payments are received in accordance with Title 8, section 1036, subsection 2.

[ 2011, c. 657, Pt. AA, §24 (AMD) .]

**2. Report.** The commissioner or the commissioner's designee shall report annually by March 1st to the joint standing committee of the Legislature having jurisdiction over gambling matters. The report must include a description of a continuum of care model used to identify the need for gambling addiction services, prevention efforts, intervention and treatment provided using money from the fund. The report must describe any collaborative efforts between the department, the Gambling Control Board established under Title 8, section 1002 and slot machine operators licensed in accordance with Title 8, chapter 31 to support the purpose of the fund described in subsection 1. The commissioner may submit recommendations for legislation to the joint standing committee of the Legislature having jurisdiction over gambling matters, which is authorized to submit that legislation to the Legislature.

[ 2011, c. 657, Pt. AA, §24 (AMD) .]

#### SECTION HISTORY

2009, c. 622, §1 (NEW). 2011, c. 657, Pt. AA, §24 (AMD).

## §20007. AGENCY COOPERATION

State agencies shall cooperate fully with the department in carrying out this chapter. A state agency may not develop, establish, conduct or administer any alcohol or drug abuse prevention or treatment program without the approval of the department. The department may request personnel, facilities and data from other agencies as the commissioner finds necessary to fulfill the purposes of this Act. [2011, c. 657, Pt. AA, §25 (AMD) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1995, c. 165, §1 (AMD). 2011, c. 657, Pt. AA, §25 (AMD).

## §20008. COMPREHENSIVE PROGRAM ON ALCOHOLISM AND DRUG ABUSE

The department shall establish and provide for the implementation of a comprehensive and coordinated program of alcohol and drug abuse prevention and treatment in accordance with subchapters 2 and 3 and the purposes of this Act. The program must include the following elements. [2011, c. 657, Pt. AA, §26 (AMD) .]

**1. Public and private resources.** All appropriate public and private resources must be coordinated with and utilized in the program.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**2. Program.** The program must include emergency treatment provided by a facility affiliated with a general hospital or with part of the medical service of a general hospital.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**3. Treatment.** The department shall provide for adequate and appropriate treatment for alcoholics, drug abusers, drug addicts and drug-dependent persons admitted under sections 20043 to 20044. Treatment may not be provided at a correctional institution, except for inmates.

[ 2011, c. 657, Pt. AA, §27 (AMD) .]

**4. Contract with facilities.** The department shall contract with approved treatment facilities whenever possible. The administrator of any treatment facility may receive for observation, diagnosis, care and treatment in the facility any person whose admission is applied for under any of the procedures in this subchapter.

[ 2011, c. 657, Pt. AA, §28 (AMD) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §§10-12 (AMD). 2011, c. 657, Pt. AA, §§26-28 (AMD).

## §20009. PLANNING

The department shall plan alcohol and drug abuse prevention and treatment activities in the State and prepare and submit to the Legislature the following documents: [2011, c. 657, Pt. AA, §29 (AMD) .]

**1. Biennial plan.** By January 15, 1991, and biennially thereafter, with the advice and consultation of the Maine Council on Alcohol and Drug Abuse Prevention and Treatment, a comprehensive plan containing statements of measurable goals to be accomplished during the coming biennium and establishing performance indicators by which progress toward accomplishing those goals will be measured; and

[ 1991, c. 601, §13 (AMD) .]

**2. Four-year assessment.** By January 15, 1991, and every 4th year thereafter, an assessment of the costs related to drug abuse in the State and the needs for various types of services within the State, including geographical disparities in the needs for various types of services and the needs of special populations of drug abusers.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §13 (AMD). 2011, c. 657, Pt. AA, §29 (AMD).

## Subchapter 2: PREVENTION

## §20021. PUBLIC AWARENESS

The department shall create and maintain a program to increase public awareness of the impacts and prevalence of alcohol and drug abuse. The public awareness program must include promotional and technical assistance to local governments, schools and public and private nonprofit organizations interested in alcohol and drug abuse prevention. [2011, c. 657, Pt. AA, §30 (AMD).]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §14 (AMD). 2011, c. 657, Pt. AA, §30 (AMD).

## §20022. INFORMATION DISSEMINATION

As part of its comprehensive prevention and treatment program, the department shall operate an information clearinghouse and oversee, support and coordinate a resource center within the Department of Education. The information clearinghouse and resource center constitute a comprehensive reference center of information related to the nature, prevention and treatment of alcohol and other drug abuse. In fulfillment of the requirement of this section, the resource center may be located within the Department of Education and

may operate there pursuant to a memorandum of agreement between the departments. Information must be available for use by the general public, political subdivisions, public and private nonprofit agencies and the State. [2011, c. 657, Pt. AA, §31 (AMD).]

Functions of the information clearinghouse and resource center may include, but are not limited to: [1991, c. 601, §15 (AMD).]

**1. Research.** Conducting research on the causes and nature of drugs, drug abuse or people who are dependent on drugs, especially alcoholics and intoxicated persons;

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**2. Information collection.** Collecting, maintaining and disseminating knowledge, data and statistics related to drugs, drug abuse and drug abuse prevention;

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**3. Educational materials.** Preparing, publishing and disseminating educational materials; and

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**4. Treatment facilities.** Maintaining an inventory of the types and quantity of drug abuse prevention facilities, programs and services available or provided under public or private auspices to drug addicts, drug abusers and drug-dependent persons, especially alcoholics and intoxicated persons. This function includes the unduplicated count, locations and characteristics of persons receiving treatment, as well as the frequency of admission and readmission and the frequency and duration of treatment of those persons. The inventory must include the amount, type and source of resources for drug abuse prevention.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §15 (AMD). 2011, c. 657, Pt. AA, §31 (AMD).

## §20023. EDUCATION

To the fullest extent possible, the Commissioner of Education shall coordinate all elementary and secondary school alcohol and drug abuse education programs administered by the Department of Education and funded under the federal Drug-Free Schools and Communities Act of 1986 with programs administered by the Department of Health and Human Services. The Commissioner of Education shall participate in planning, budgeting and evaluation of alcohol and other drug abuse programs, in cooperation with the Substance Abuse Advisory Group, and ensure that alcohol and drug abuse education programs administered by the Department of Education that involve any community participation are coordinated with available treatment services. [2011, c. 657, Pt. AA, §32 (AMD).]

Nothing in this section interferes with the authority of the Department of Education to receive and allocate federal funds under the federal Drug-Free Schools and Communities Act of 1986. [1989, c. 700, Pt. B, §46 (AMD); 1989, c. 934, Pt. A, §3 (NEW).]

#### SECTION HISTORY

1989, c. 700, Pt. B, §46 (AMD). 1989, c. 934, §A3 (NEW). 1991, c. 601, §§16,17 (AMD). 2011, c. 657, Pt. AA, §32 (AMD).

## §20024. LICENSING

The department shall periodically enter, inspect and examine a treatment facility or program and examine its books, programs, standards, policies and accounts. This examination process must include a review of the requirements to be a community-based service provider pursuant to subchapter 5. The department shall fix and collect the fees for the inspection and certification and shall maintain a list of approved public and private treatment facilities. [2011, c. 657, Pt. AA, §33 (AMD).]

Upon request by the department, each approved public and private treatment facility must provide data, statistics, schedules and information that the department reasonably requires. The commissioner may remove a facility that fails to provide such information from the list of approved facilities. [2011, c. 657, Pt. AA, §33 (AMD).]

An approved public or private treatment facility may not refuse inspection or examination by the department under this section. [2011, c. 657, Pt. AA, §33 (AMD).]

Procedures to decertify any facility or to refuse certification are governed by the Maine Administrative Procedure Act. [1991, c. 601, §19 (NEW).]

A treatment facility or program that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this paragraph in response to a complaint against the facility or program. [2011, c. 145, §1 (NEW).]

### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §§18,19 (AMD). 1991, c. 850, §5 (AMD). 2011, c. 145, §1 (AMD). 2011, c. 657, Pt. AA, §33 (AMD).

## Subchapter 3: TREATMENT

## §20041. EVALUATION

**1. Data collection; sources.** The department shall collect data and use information from other sources to evaluate or provide for the evaluation of the impact, quality and value of alcohol and drug abuse prevention activities, treatment facilities and other alcohol and other drug abuse programs.

[ 2011, c. 657, Pt. AA, §34 (AMD) .]

**2. Content of evaluation.** Any evaluation of treatment facilities must include, but is not limited to, administrative adequacy and capacity, policies and treatment planning and delivery. Alcohol and drug abuse prevention and treatment services authorized by this Act and by the following federal laws and amendments that relate to drug abuse prevention must be evaluated:

A. The Drug Abuse Office and Treatment Act of 1972, 21 United States Code, Section 1101 et seq. (1982); [1989, c. 934, Pt. A, §3 (NEW).]

B. The Community Mental Health Centers Act, 42 United States Code, Section 2688 et seq. (1982); [1989, c. 934, Pt. A, §3 (NEW).]

C. The Public Health Service Act, 42 United States Code, Section 1 et seq. (1982); [1989, c. 934, Pt. A, §3 (NEW).]

D. The Vocational Rehabilitation Act, 29 United States Code, Section 701 et seq. (1982); [1989, c. 934, Pt. A, §3 (NEW).]

E. The Social Security Act, 42 United States Code, Section 301 et seq. (1982); and [1989, c. 934, Pt. A, §3 (NEW).]



F. The federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616 (1982) and similar Acts. [1989, c. 934, Pt. A, §3 (NEW).]

[ 1991, c. 601, §20 (AMD) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §20 (AMD). 2011, c. 657, Pt. AA, §34 (AMD).

## §20042. STANDARDS

The department shall contract for treatment services only with approved treatment facilities. [ 2011, c. 657, Pt. AA, §35 (AMD).]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §20 (AMD). 2011, c. 657, Pt. AA, §35 (AMD).

## §20043. ACCEPTANCE FOR TREATMENT OF ALCOHOLICS, DRUG ABUSERS, DRUG ADDICTS AND DRUG-DEPENDENT PERSONS

The department shall adopt rules for acceptance of persons into a treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics, drug abusers, drug addicts and drug-dependent persons. [2011, c. 657, Pt. AA, §36 (AMD).]

In establishing rules, the department must be guided by the following standards. [2011, c. 657, Pt. AA, §37 (AMD).]

**1. Voluntary basis.** People must be treated on a voluntary basis.

[ 1991, c. 601, §20 (AMD) .]

**2. Initial assignment.** A person must be initially assigned or transferred to outpatient or intermediate treatment, unless the person is found to require residential treatment.

[ 1991, c. 601, §20 (AMD) .]

**3. Denial of treatment.** A person may not be denied treatment solely because that person has withdrawn from treatment against medical advice on a prior occasion or has relapsed after earlier treatment.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**4. Individualized treatment plan.** An individualized treatment plan must be prepared and maintained on a current basis for each patient.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**5. Coordinated treatment.** Provision must be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment has available and may utilize other appropriate treatment.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**6. Denial of treatment services.** A person, firm or corporation licensed by the department as an approved alcohol or drug treatment facility under Title 5, section 20005 to provide shelter or detoxification services, and that receives any funds administered by the department to provide substance abuse prevention and treatment services, may not deny treatment to any person because of that person's inability or failure to pay any assessed fees.

[ 2011, c. 657, Pt. AA, §38 (AMD) .]

**7. Community-based.** Treatment must be provided in the least restrictive setting possible and in the person's home community wherever possible.

[ 1991, c. 601, §20 (NEW) .]

**8. Diagnosing.** Diagnosing of a person's mental capabilities, psychological or personality composition, or other nonalcohol-related or drug-related conditions or mental states may not be conducted until detoxification is complete and the person is judged to be medically no longer under the influence of a chemical or substance of abuse.

[ 1991, c. 601, §20 (NEW) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §20 (AMD). 2011, c. 657, Pt. AA, §§36-38 (AMD).

## §20044. VOLUNTARY TREATMENT OF ALCOHOLICS, DRUG ABUSERS, DRUG ADDICTS AND DRUG-DEPENDENT PERSONS

**1. Voluntary treatment.** An alcoholic, drug abuser, drug addict or drug-dependent person may apply for voluntary treatment directly to an approved treatment facility.

[ 1991, c. 601, §20 (AMD) .]

**2. Determination.** A person who comes voluntarily or is brought to an approved treatment facility for residential care and treatment must be examined immediately by a licensed physician. That person may then be admitted or referred to another health facility based upon the physician's recommendation. Subject to rules adopted by the department, the administrator in charge of an approved treatment facility may determine who may be admitted for treatment. If a person is refused admission to an approved treatment facility, the administrator, subject to rules adopted by the department, shall refer the person to another approved treatment facility for treatment if possible and appropriate.

[ 2011, c. 657, Pt. AA, §39 (AMD) .]

**3. Outpatient or intermediate treatment.** If a person receiving residential care leaves an approved treatment facility, that person must be encouraged to consent to appropriate outpatient or intermediate treatment.

[ 1991, c. 601, §20 (AMD) .]

**4. Discharge.** If a person leaves an approved treatment facility, against the advice of the administrator in charge of the facility and that person does not have a home, the patient must be assisted in obtaining shelter.

[ 1991, c. 601, §20 (AMD) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §20 (AMD). 2011, c. 657, Pt. AA, §39 (AMD).

## **§20045. TREATMENT AND SERVICES FOR INTOXICATED PERSONS AND PERSONS INCAPACITATED BY ALCOHOL**

*(REPEALED)*

### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §21 (RP).

## **§20046. EMERGENCY COMMITMENT OF AN INCAPACITATED OR INTOXICATED PERSON**

*(REPEALED)*

### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §22 (RP).

## **§20047. RECORDS**

**1. Registration and records.** Registration and other records of treatment facilities must remain confidential and are privileged to the patient.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**2. Information for research.** Notwithstanding subsection 1, the commissioner may make available information from patients' records for purposes of research into the causes and treatment of alcoholism and drug abuse. Information under this subsection may not be published in a way that discloses patients' names or other identifying information.

[ 2011, c. 657, Pt. AA, §40 (AMD) .]

### SECTION HISTORY

1989, c. 934, §A3 (NEW). 2011, c. 657, Pt. AA, §40 (AMD).

## **§20048. VISITATION AND COMMUNICATION OF PATIENTS**

**1. Hours of visitation.** Subject to reasonable rules regarding hours of visitation that the commissioner may adopt, patients in any approved treatment facility must be granted opportunities for adequate consultation with counsel and for continuing contact with family and friends consistent with an effective treatment program.

[ 2011, c. 657, Pt. AA, §41 (AMD) .]

**2. Communication.** Mail or other communication to or from a patient in any approved treatment facility may not be intercepted, read or censored. The commissioner may adopt reasonable rules regarding the use of telephones by patients in approved treatment facilities.

[ 2011, c. 657, Pt. AA, §41 (AMD) .]

**3. Restrictions.** The patient may exercise all civil rights, including, but not limited to, civil service status; the right to vote; rights relating to the granting, renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law; and the right to enter contractual relationships and to manage the patient's property, except:

A. To the extent the commissioner determines that it is necessary for the medical welfare of the patient to impose restrictions, unless the patient has been restored to legal capacity; or [2011, c. 657, Pt. AA, §41 (AMD).]

B. When specifically restricted by other laws or rules. [1989, c. 934, Pt. A, §3 (NEW).]

Restrictions on the exercise of civil rights may not be imposed on any patient solely because of the fact of that person's admission to a mental hospital.

[ 2011, c. 657, Pt. AA, §41 (AMD) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 2011, c. 657, Pt. AA, §41 (AMD).

### **§20049. EMERGENCY SERVICE PATROL; ESTABLISHMENT; RULES (REPEALED)**

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §23 (RP).

### **§20050. PAYMENT FOR TREATMENT; FINANCIAL ABILITY OF PATIENTS**

**1. Payment.** If treatment is provided by an approved treatment facility and the patient has not paid the charge for that treatment, the treatment facility is entitled to any payment received by the patient or to which the patient may be entitled because of the services rendered, and from any public or private source available to the treatment facility because of the treatment provided to the patient.

[ 1991, c. 601, §24 (AMD) .]

**2. Liability.** A patient in an approved public treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment who has sufficient financial ability, is liable to the treatment facility for cost of maintenance and treatment of the patient in accordance with established rates.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**3. Finances.** The department shall adopt rules governing financial ability that take into consideration the patient's income, savings, other personal and real property and any support being furnished to any other person that the patient is required by law to support.

[ 2011, c. 657, Pt. AA, §42 (AMD) .]

#### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §24 (AMD). 2011, c. 657, Pt. AA, §42 (AMD).

**§20051. CRIMINAL LAW LIMITATIONS**

**1. Laws.** A county, municipality or other political subdivision may not adopt or enforce a local law, ordinance, regulation or rule having the force of law that includes drinking, being a person with alcoholism or being found in an intoxicated condition as one of the elements of an offense giving rise to a criminal or civil penalty or sanction.

[ 2009, c. 299, Pt. A, §1 (AMD) .]

**2. Interpretation.** A county, municipality or other political subdivision may not interpret or apply any law of general application to circumvent subsection 1.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

**3. Effect.** Nothing in this subchapter affects any law, ordinance, regulation or rule against drunken driving, driving under the influence of alcohol or other similar offense involving the operation of a vehicle, snowmobile, aircraft, boat, machinery or other equipment, or regarding the sale, purchase, dispensing, possessing or use of alcoholic beverages at stated times and places or by a particular class of persons.

[ 1989, c. 934, Pt. A, §3 (NEW) .]

## SECTION HISTORY

1989, c. 934, §A3 (NEW). 2009, c. 299, Pt. A, §1 (AMD).

**§20052. LONG-TERM METHADONE AND OTHER NARCOTIC DRUG DETOXIFICATION AND MAINTENANCE TREATMENT**

*(REPEALED)*

## SECTION HISTORY

1995, c. 499, §1 (NEW). 1995, c. 499, §5 (AFF). 2001, c. 26, §1 (RP).

**§20053. LONG-TERM NARCOTIC DEPENDENCY TREATMENT PROJECT**

*(REPEALED)*

## SECTION HISTORY

1995, c. 499, §1 (NEW). 1995, c. 499, §5 (AFF). 1995, c. 621, §§1,2 (AMD). 1997, c. 245, §19 (AMD). 2001, c. 26, §2 (RP).

Subchapter 4: MAINE COUNCIL ON ALCOHOL AND  
DRUG ABUSE PREVENTION AND TREATMENT

**§20061. MEMBERSHIP**

*(REPEALED)*

## SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §25 (AMD). 1993, c. 410, §LL11 (RP).

**§20062. MEETINGS; COMPENSATION; QUORUM**

*(REPEALED)*

## SECTION HISTORY

1989, c. 934, §A3 (NEW). 1993, c. 410, §LL11 (RP).

## §20063. POWERS AND DUTIES OF THE COUNCIL (REPEALED)

### SECTION HISTORY

1989, c. 934, §A3 (NEW). 1991, c. 601, §§26,27 (AMD). 1993, c. 410, §LL11 (RP).

## Subchapter 4-A: SUBSTANCE ABUSE SERVICES COMMISSION

### §20065. MEMBERSHIP

**1. Members; appointment.** The Substance Abuse Services Commission, as established by section 12004-G, subsection 13-C, consists of 21 members.

[ 1999, c. 401, Pt. FFF, §1 (AMD) .]

**2. Qualifications.** To be qualified to serve, members must have education, training, experience, knowledge, expertise and interest in drug abuse prevention and training. Members must reflect experiential diversity and concern for drug abuse prevention and treatment in the State. Members must have an unselfish and dedicated personal interest demonstrated by active participation in drug abuse programs such as prevention, treatment, rehabilitation, training or research in drug abuse and alcohol abuse.

[ 1993, c. 410, Pt. LL, §12 (NEW) .]

**3. Members; representation.** The commission consists of the following members:

A. One member of the Senate, appointed by the President of the Senate, and 5 members of the Legislature who may be members of either the Senate or the House of Representatives, appointed by the President of the Senate if Senators or the Speaker of the House if members of the House of Representatives and 2 of these 5 at-large members of the Legislature must be members of the joint standing committee of the Legislature having jurisdiction over health and human services matters; [1999, c. 401, Pt. FFF, §2 (RPR).]

B. One physician experienced in the treatment of substance abuse, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

C. One public school superintendent who has experience with school-based substance abuse prevention and education programs, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

D. One elementary school educator, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW) .]

E. One representative from nominations by a statewide alliance for addiction recovery appointed by the Governor; [2001, c. 303, §1 (AMD).]

F. One attorney who represents clients involved with the substance abuse system, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

G. One educator involved in postsecondary substance abuse education, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

H. One substance abuse prevention practitioner, one substance abuse education practitioner and one substance abuse treatment practitioner, appointed by the Governor; [1993, c. 410, Pt. LL, §12 (NEW).]

I. One private sector employer familiar with substance abuse employee assistance programs, appointed by the Governor; and [1993, c. 410, Pt. LL, §12 (NEW).]

J. Five members of the public, appointed by the Governor. In appointing these 5 members, the Governor shall select members from outstanding people in the following areas:

- (1) Drug abuse prevention;
  - (2) Drug abuse treatment;
  - (3) Education;
  - (4) Employers; and
  - (5) Persons affected by or recovering from alcoholism, chronic intoxication, drug abuse or drug dependency, evidenced by a minimum of 3 years of sobriety or abstention from drug abuse.
- [1993, c. 410, Pt. LL, §12 (NEW).]

[ 2001, c. 303, §1 (AMD) .]

**4. Term; vacancies.** Terms of appointment begin and expire on June 1st. A vacancy in the commission does not affect the commission's powers, but must be filled in the same manner as the original appointment.

A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed may be appointed only for the remainder of that term.

A. The terms of the 5 public members appointed under subsection 3, paragraph J are staggered. Of the initial appointees under that paragraph, 2 are appointed for terms of 3 years, 2 for terms of 2 years and one for a term of one year. Thereafter, all appointments are for terms of 3 years, except that a member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term. Members hold office until the appointment and confirmation of their successors. A public member may not be appointed for more than 2 consecutive, 3-year terms. [1993, c. 700, §1 (AMD).]

B. Members who are members of the Legislature and appointed by the President of the Senate or the Speaker of the House of Representatives serve at the pleasure of the appointing authority. [1993, c. 410, Pt. LL, §12 (NEW).]

C. [1993, c. 700, §2 (RP).]

[ 1993, c. 700, §§1, 2 (AMD) .]

**5. Reappointment; termination.** Members may be appointed for 2 consecutive terms only and may serve after the expiration of their terms until their successors have been appointed and qualified and have taken office. The appointing authority may terminate the appointment of a member for good and just cause and the appointing authority shall communicate the reason for the termination to the member terminated. The appointment of a member of the commission is terminated if a member is absent from 3 consecutive meetings without a good and just cause that is communicated to the chair of the commission.

[ 1993, c. 410, Pt. LL, §12 (NEW) .]

**6. Officers.** The Governor shall designate one member to chair the commission. The commission may elect other officers from its members as it considers appropriate.

[ 1993, c. 410, Pt. LL, §12 (NEW) .]

**7. Subcommittees.** The commission may appoint from its membership subcommittees relating to particular problem areas or other matters, provided that the commission functions as an integrated committee.

[ 1993, c. 410, Pt. LL, §12 (NEW) .]

**8. Administrative and financial assistance.** The department shall provide the commission administrative or financial assistance that is available from department resources.

[ 2011, c. 657, Pt. AA, §43 (AMD) .]

#### SECTION HISTORY

1993, c. 410, §LL12 (NEW). 1993, c. 700, §§1,2 (AMD). 1995, c. 560, §L9 (AMD). 1995, c. 560, §L16 (AFF). 1999, c. 401, §§FFF1,2 (AMD). 2001, c. 303, §1 (AMD). 2011, c. 657, Pt. AA, §43 (AMD).

## §20066. MEETINGS; COMPENSATION; QUORUM

**1. Calling meetings.** The commission shall meet at the call of the chair or at the call of at least 1/4 of the members appointed and currently holding office.

[ 1993, c. 410, Pt. LL, §12 (NEW) .]

**2. Frequency of meetings.** The commission shall meet at least 12 times a year and at least once a month.

[ 1993, c. 410, Pt. LL, §12 (NEW) .]

**3. Minutes.** The commission shall keep minutes of all meetings, including a list of people in attendance. The commission shall immediately send copies of the minutes to the Governor and the leadership of the Legislature, who shall provide for their appropriate distribution and retention in a place of safekeeping.

[ 1993, c. 410, Pt. LL, §12 (NEW) .]

**4. Compensation.** Members of the commission are entitled to compensation under chapter 379.

[ 1993, c. 410, Pt. LL, §12 (NEW) .]

**5. Quorum; council action.** A majority of the commission members constitutes a quorum for the purpose of conducting the business and exercising all the powers of the commission. A vote of a majority of the members present is sufficient for all actions of the commission.

[ 1993, c. 410, Pt. LL, §12 (NEW) .]

#### SECTION HISTORY

1993, c. 410, §LL12 (NEW).

## §20067. DUTIES OF THE COMMISSION

The commission, in cooperation with the department, has the following duties. [2011, c. 657, Pt. AA, §44 (AMD).]

### 1. Oversee office.

[ 1995, c. 560, Pt. L, §16 (AFF); 1995, c. 560, Pt. L, §10 (RP) .]

**1-A. Advise the department.** The commission shall advise the department in the development and implementation of significant policy matters relating to substance abuse.

[ 2011, c. 657, Pt. AA, §45 (AMD) .]



**2. Advise, consult and assist.** The commission shall advise, consult and assist the Governor, the executive and legislative branches of State Government and the Chief Justice of the Supreme Judicial Court with activities of State Government related to drug abuse prevention, including alcoholism and intoxication.

[ 1997, c. 134, §9 (AMD) .]

**3. Serve as advocate; review and evaluate; inform the public.** The commission shall serve as an advocate on alcoholism and drug abuse prevention, promoting and assisting activities designed to meet the problems of drug abuse and drug dependence at the national and state levels. With the support of the department, the commission shall review and evaluate on a continuing basis state and federal policies and programs relating to drug abuse and other activities conducted or assisted by state departments or agencies that affect persons who abuse or are dependent on drugs. In cooperation with the department, the commission shall keep the public informed by collecting and disseminating information, by conducting or commissioning studies and publishing the results of those studies, by issuing publications and reports and by providing public forums, including conferences and workshops.

[ 2011, c. 657, Pt. AA, §46 (AMD) .]

**4. Report to the Legislature.** The commission shall report annually to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on or before the last business day of each year. The report must include developments and needs related to drug abuse prevention, including alcoholism and intoxication, and significant policy matters relating to substance abuse.

[ 1999, c. 401, Pt. FFF, §3 (NEW) .]

#### SECTION HISTORY

1993, c. 410, §LL12 (NEW). 1995, c. 560, §§L10,11 (AMD). 1995, c. 560, §L16 (AFF). 1997, c. 134, §9 (AMD). 1999, c. 401, §FFF3 (AMD). 2011, c. 657, Pt. AA, §§44-46 (AMD).

## Subchapter 5: DRIVER EDUCATION AND EVALUATION PROGRAMS

### §20071. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 601, §28 (NEW).]

**1. Alcohol-related or other drug-related motor vehicle incident.** "Alcohol-related or other drug-related motor vehicle incident" means a conviction or administrative action resulting in the suspension of a motor vehicle operator's license for a violation under former Title 29, section 1311-A; Title 29, section 1312, subsection 10-A; Title 29, section 1312-C; Title 29, section 1312-B; Title 29, section 1313-B; Title 29, section 2241, subsection 1, paragraph N; Title 29, section 2241-G, subsection 2, paragraph B, subparagraph (2); Title 29, section 2241-J; Title 29-A, section 1253; Title 29-A, section 2411; Title 29-A, section 2453; Title 29-A, section 2454, subsection 2; Title 29-A, section 2456; Title 29-A, section 2457; Title 29-A, section 2472, subsection 3, paragraph B and subsection 4; Title 29-A, section 2503; Title 29-A, sections 2521 to 2523; or Title 29-A, section 2525 or the rules adopted by the Department of the Secretary of State for the suspension of commercial drivers' licenses.

[ 1999, c. 448, §1 (AMD) .]

**2. Client.** "Client" means a person who is required to complete an alcohol and other drug education, evaluation and treatment program for an alcohol-related or drug-related motor vehicle offense.

[ 1991, c. 601, §28 (NEW) .]

**3. Community-based service provider.** "Community-based service provider" means a provider of either the treatment component or the evaluation component, or both, of the alcohol and other drug education, evaluation and treatment program certified under section 20075 or a program approved by the office.

[ 1991, c. 601, §28 (NEW) .]

**4. Completion of treatment.** "Completion of treatment," for the purpose of recommendation by the office to the Secretary of State concerning restoration of the driver's license to the client, means that the individual has responded to treatment to the extent that there is a substantial probability that the individual will not be operating under the influence. This substantial probability may be shown by:

- A. An acknowledgement by the client of the extent of the client's alcohol or drug problem; [1991, c. 601, §28 (NEW).]
- B. A demonstrated ability to abstain from the use of alcohol and drugs; and [1991, c. 601, §28 (NEW) .]
- C. A willingness to seek continued voluntary treatment or to participate in an appropriate self-help program, or both, as necessary. [1991, c. 601, §28 (NEW).]

[ 1991, c. 601, §28 (NEW) .]

**4-A. First offender.** "First offender" means a client who has no previous alcohol-related or drug-related motor vehicle incident within a 10-year period.

[ 1999, c. 448, §2 (AMD) .]

**4-B. First offender with an aggravated operating-under-the-influence offense.**

[ 2001, c. 511, §1 (RP) .]

**5. Multiple offender.** "Multiple offender" means a client who has more than one alcohol-related or drug-related motor vehicle incident within a 10-year period or has a previous incident prior to the 10-year period for which the client has not completed a Driver Education and Evaluation Program as established in section 20072.

[ 1999, c. 448, §3 (AMD) .]

#### SECTION HISTORY

1991, c. 601, §28 (NEW). 1991, c. 622, §Y2 (AMD). 1993, c. 631, §§2-4 (AMD). 1995, c. 65, §§A11,12 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1999, c. 448, §§1-3 (AMD). 2001, c. 511, §1 (AMD).

## §20072. DRIVER EDUCATION AND EVALUATION PROGRAMS

The Driver Education and Evaluation Programs are established in the department. The Driver Education and Evaluation Programs shall administer the alcohol and other drug education, evaluation and treatment programs as provided in this chapter. The department shall certify to the Secretary of State: [ 2011, c. 657, Pt. AA, §47 (AMD).]

**1. Completion of Driver Education and Evaluation Programs.** Those individuals who have satisfactorily completed a program pursuant to section 20073-B; and

[ 1999, c. 448, §4 (AMD) .]

**2. Completion of treatment other than Driver Education and Evaluation Programs.** Those individuals who have satisfied the requirement for completion of treatment as defined in section 20071 by means other than a program pursuant to section 20073-B.

[ 1999, c. 448, §4 (AMD) .]

#### SECTION HISTORY

1991, c. 601, §28 (NEW). 1991, c. 622, §Y3 (AMD). 1991, c. 850, §6 (AMD). 1995, c. 560, §L12 (AMD). 1995, c. 560, §L16 (AFF). 1999, c. 448, §4 (AMD). 2011, c. 657, Pt. AA, §47 (AMD).

## §20072-A. FUNDING

General Fund appropriations for the Driver Education and Evaluation Programs may not exceed \$1,700,000 in any fiscal year. [2009, c. 462, Pt. J, §1 (NEW).]

#### SECTION HISTORY

2009, c. 462, Pt. J, §1 (NEW).

## §20073. PROGRAM COMPONENTS

*(REPEALED)*

#### SECTION HISTORY

1991, c. 601, §28 (NEW). 1991, c. 622, §Y4 (RP).

## §20073-A. PROGRAM COMPONENTS

*(REPEALED)*

#### SECTION HISTORY

1991, c. 622, §Y5 (NEW). 1991, c. 850, §§7,8 (AMD). 1993, c. 631, §§5,6 (AMD). 1999, c. 448, §5 (RP).

## §20073-B. PROGRAMS AND COMPONENTS; RULES

The department shall design programs and components that are age-appropriate and therapeutically appropriate. The department shall adopt rules regarding requirements for these programs and components and any other rules necessary to implement this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A. [2011, c. 657, Pt. AA, §48 (AMD).]

#### SECTION HISTORY

1999, c. 448, §6 (NEW). 2011, c. 657, Pt. AA, §48 (AMD).

## §20074. SEPARATION OF EVALUATION AND TREATMENT FUNCTIONS

A Driver Education and Evaluation Programs private practitioner or a counselor employed by a substance abuse facility approved or licensed by the department providing services under this subchapter may not provide both treatment services and evaluation services for the same individual participating in programs under this subchapter unless a waiver is granted on a case-by-case basis by the Driver Education and Evaluation Programs. The practitioner or counselor providing evaluation services shall give a client the name of 3 practitioners or counselors who can provide treatment services, at least one of whom may not be employed by the same agency as the practitioner or counselor conducting the evaluation. [2011, c. 657, Pt. AA, §49 (AMD).]

#### SECTION HISTORY

1991, c. 601, §28 (NEW). 1991, c. 622, §Y6 (AMD). 1991, c. 850, §9 (AMD). 2011, c. 657, Pt. AA, §49 (AMD).

## **§20075. CERTIFICATION; RECERTIFICATION**

All providers of the evaluation, intervention and treatment components of the Driver Education and Evaluation Programs must be certified by the department pursuant to section 20005, section 20024, section 20073-B and this subchapter. The certification period for individual providers and agencies is 2 years. The department shall adopt rules requiring continuing education for recertification. [2011, c. 657, Pt. AA, §50 (AMD).]

### SECTION HISTORY

1991, c. 601, §28 (NEW). 1991, c. 850, §10 (AMD). 1999, c. 448, §7 (AMD). 2001, c. 511, §2 (AMD). 2011, c. 657, Pt. AA, §50 (AMD).

## **§20076. FEES**

*(REPEALED)*

### SECTION HISTORY

1991, c. 601, §28 (NEW). 1991, c. 622, §Y7 (RP).

## **§20076-A. FEES**

*(REPEALED)*

### SECTION HISTORY

1991, c. 622, §Y8 (NEW). 1999, c. 448, §8 (RP).

## **§20076-B. FEES**

The department shall set fees in accordance with the cost of each program. All fees must be transferred to the General Fund. The department may waive all or part of any fee for a client who provides sufficient evidence of inability to pay. [2011, c. 657, Pt. AA, §51 (AMD).]

### SECTION HISTORY

1999, c. 448, §9 (NEW). 2011, c. 657, Pt. AA, §51 (AMD).

## **§20077. REPORT**

Beginning in 1992, the commissioner shall report annually by February 1st to the joint standing committee of the Legislature having jurisdiction over human resource matters regarding the department's activities under this subchapter. A copy of the report must be sent to the Executive Director of the Legislative Council. [2011, c. 657, Pt. AA, §52 (AMD).]

### SECTION HISTORY

1991, c. 601, §28 (NEW). 2011, c. 657, Pt. AA, §52 (AMD).

## **§20078. BOARD OF APPEALS**

*(REPEALED)*

### SECTION HISTORY

1991, c. 601, §28 (NEW). 1991, c. 622, §§Y9,10 (AMD). 1991, c. 850, §§11-14 (AMD). 1991, c. 850, §19 (AFF).

## §20078-A. BOARD OF APPEALS

The Driver Education and Evaluation Programs Appeals Board, established in section 12004-G, subsection 15-A, is referred to as the "board" in this subchapter and is governed by this section. [1993, c. 631, §7 (NEW).]

**1. Qualifications.** Each member of the board must have training, education, experience and demonstrated ability in successfully treating clients who have substance abuse problems. Board members may not hold a current certificate to provide driver education, evaluation and treatment services during their terms of appointment.

[1993, c. 631, §7 (NEW).]

**2. Appointment; term; removal.** The board consists of 3 members appointed by the Governor for 2-year terms; initially, however, 2 members are appointed for 2-year terms and one member for a one-year term. A vacancy occurring prior to the expiration of a term must be filled by appointment for the unexpired term. Members may be removed by the Governor for cause.

[1993, c. 631, §7 (NEW).]

**3. Facilities; staff.** The commissioner shall provide staff support and adequate facilities for the board.

[2011, c. 657, Pt. AA, §53 (AMD).]

**4. Chair; rules.** The board shall elect annually a chair from its members. The commissioner shall adopt rules to carry out the purposes of this section.

[2011, c. 657, Pt. AA, §54 (AMD).]

**5. Compensation.** Each member of the board is entitled to compensation in accordance with chapter 379.

[1993, c. 631, §7 (NEW).]

**6. Appeal from decision.** A client of Driver Education and Evaluation Programs may appeal to the board as follows.

A. The client may appeal a failure to certify completion of treatment pursuant to section 20072, subsection 2. [1993, c. 631, §7 (NEW).]

B. The client may appeal an evaluation decision referring the client to treatment or a completion of treatment decision. A client may appeal under this paragraph only after the client has sought a 2nd opinion of the need for treatment or of satisfactory completion of treatment. [1999, c. 448, §10 (AMD).]

[1999, c. 448, §10 (AMD).]

**7. Appeal procedure and action.** An appeal is heard and decided by one board member. The board may affirm or reverse the decision of the treatment provider or agency, require further evaluation, make a finding of completion of treatment or make an alternate recommendation. The board, after due consideration, shall make a written decision and transmit that decision to the Driver Education and Evaluation Programs and the client who appealed the case. The decision of the board is final agency action for purposes of judicial review pursuant to chapter 375, subchapter VII.

[1993, c. 631, §7 (NEW).]

### SECTION HISTORY

1993, c. 631, §7 (NEW). 1999, c. 448, §10 (AMD). 2011, c. 657, Pt. AA, §§53, 54 (AMD).

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